REMARKS / ARGUMENTS

Before entry of the present amendment, Claims 1-6 were pending, and presently. Claims 1-6 stand rejected as being anticipated by Applicant Admitted Prior Art. However, the art cited is NOT work of another, but rather represents the commercial embodiment of the present invention as commercialized by the inventors. As such, this "prior art" is not available as prior art against the claims, regardless of whether the admitted prior art would otherwise qualify as prior art under the statutory categories of 35 U.S.C. 102. Riverwood Int'l Corp. v. R.A. Jones & Co., 324 F.3d 1346, 1354, 66 USPQ2d 1331, 1337 (Fed Cir. 2003). Even if labeled as "prior art," the work of the same inventive entity may not be considered prior art against the claims unless it falls under one of the statutory categories. Id.; see also Reading & Bates Construction Co. v. Baker Energy Resources Corp., 748 F.2d 645, 650, 223 USPQ 1168, 1172 (Fed. Cir. 1984) ("[W]here the inventor continues to improve upon his own work product, his foundational work product should not, without a statutory basis, be treated as prior art solely because he admits knowledge of his own work. It is common sense that an inventor, regardless of an admission, has knowledge of his own work.").

Finally, the listing of this reference in the information disclosure statement is not to be taken as an admission that the reference is prior art against the claims. *Riverwood Int'l Corp. v. R.A. Jones & Co.*, 324 F.3d 1346, 1354-55, 66 USPQ2d 1331, 1337-38 (Fed Cir. 2003) (listing of applicant's own prior patent in an IDS does not make it available as prior art absent a statutory basis); *see also* 37 CFR 1.97(h) ("The filing of an information disclosure statement shall not be construed to be an admission that the information cited in the statement is, or is considered to be,

material to patentability as defined in § 1.56(b).")

Consequently, the examiner should treat such subject matter as the work of the inventor and not the work of another.

Consequently, rejection under 35 U.S.C. §102(b) is improper.

Therefore, in view of foregoing amendments and clarifications, the applicant submits that allowance of the present application and all remaining claims, as amended, is in order and a formal Notice of Allowance is respectfully requested at the earliest possible date.

Respectfully submitted,

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